

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Extension of Section 272 Obligations Of)	
Southwestern Bell Telephone Co.)	WC Docket No. 02-112
In the State of Texas)	

REPLY COMMENTS

WorldCom, Inc. d/b/a MCI (MCI) hereby submits its reply to comments on the Petition of AT&T Corp. (AT&T Petition), filed April 10, 2003 in the above-captioned proceeding.

The comments confirm that the local market in Texas is not “fully competitive” – the Commission’s prerequisite for lifting the section 272 safeguards.¹ As commenters show, SWBT’s competitors in the interLATA market continue to rely on SWBT’s facilities to reach the vast majority of their customers.² Because competitors’ continued dependence on SWBT facilities gives SWBT the ability and the incentive to discriminate against its rivals, “it is plain to see that the market power dominance that the separate affiliate requirement was designed to mitigate still exists, and therefore the need for a separate affiliate to allow monitoring of market behavior has not disappeared.”³

¹ Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-149, released December 24, 1996 (Non-Accounting Safeguards Order) at ¶ 9.

² Sprint Comments at 6-10; Birch Comments at 2-4; Texas AG’s Comments at 3-4.

³ Texas AG’s Comments at 3-4.

At a minimum, the Commission should temporarily extend the SWBT-Texas section 272 requirements until it has completed the open proceedings initiated by the Section 272 Sunset Notice⁴ and the Interexchange Further Notice.⁵ Given that the Commission has launched a proceeding to examine the conditions under which section 272 requirements should sunset, the Commission should retain the section 272 safeguards until it has determined those conditions. Similarly, given that the Commission has launched a proceeding to examine the regulatory requirements that should apply to the BOCs' interLATA operations post-sunset, the Commission should retain the section 272 safeguards until it has determined those regulatory requirements. Verizon's suggestion that the Commission should allow SWBT's section 272 requirements to sunset, before addressing commenters' arguments in the ongoing rulemaking proceeding,⁶ clearly puts the cart before the horse.

The Interexchange Further Notice, released today, only emphasizes that there would no rational basis for the Commission to allow the SWBT-Texas Section 272 safeguards to sunset on June 30th. Among the key questions that the Commission asks in that Notice is whether "there are adequate safeguards in place, post-sunset, . . . that would prevent anticompetitive conduct by BOCs, including cost misallocation, unlawful discrimination, or a price squeeze."⁷ Given that that question must be answered before the Commission can make a reasoned decision concerning the SWBT-Texas Section 272

⁴ Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, Notice of Proposed Rulemaking, WC Docket No. 02-112, released May 24, 2002 (Section 272 Sunset Notice).

⁵ Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules, Further Notice of Proposed Rulemaking, WC Docket No. 02-112; CC Docket No. 00-175, released May 19, 2003 (Interexchange Further Notice).

⁶ Verizon Comments at 1.

⁷ Interexchange Further Notice at ¶ 40.

sunset, the Commission cannot simply allow the SWBT-Texas requirements to sunset only weeks after asking, and before it has answered, that question.

SBC itself inadvertently illustrates why the SWBT-Texas section 272 safeguards should be retained at least until the Commission completes the open rulemaking proceedings. In arguing that the Commission's elimination of the Computer II separate affiliate requirement should inform the Commission's decision regarding the SWBT-Texas separate affiliate requirement,⁸ SBC ignores the fact that the Commission eliminated the Computer II separate affiliate requirement only after it had adopted alternative safeguards – the Computer III rules. The Computer II precedent therefore does not support the action that SWBT is urging here – simply eliminating the SWBT-Texas separate affiliate requirement before the Commission has determined whether alternative safeguards are required. The Commission may well find, as it did in the Computer III proceeding, that the section 272 structural safeguards may be lifted only if alternative safeguards are put in place. Indeed, the Section 272 Sunset Notice specifically asks whether alternative safeguards will be required if and when the section 272 requirements are permitted to expire.⁹

Certainly, the Commission should retain the SWBT-Texas section 272 safeguards at least until it has fully implemented the post-sunset safeguards that are specifically required by the Act, including the section 272(e)(1) ban on discrimination in the provisioning of access services. As MCI explained in its initial comments,¹⁰ the Commission has yet to adopt the reporting requirements necessary to implement section

⁸ SBC Comments at 6.

⁹ Section 272 Sunset Notice at ¶¶ 23, 25.

¹⁰ MCI Comments at 7.

272(e)(1), despite concluding in the Non-Accounting Safeguards Order that such reporting requirements are necessary. Indeed, the Interexchange Further Notice acknowledges that section 272(e)(1) has not been fully implemented.¹¹ Similarly, the Interexchange Further Notice acknowledges that additional requirements may be necessary to implement section 272(e)(3).¹²

For the reasons stated herein, the Commission should extend the section 272 safeguards applicable to SWBT-Texas.

Respectfully submitted,
WORLDCOM, INC. d/b/a MCI

/s/ Alan Buzacott

Alan Buzacott
1133 19th Street, N.W.
Washington, DC 20036
(202) 887-3204

May 19, 2003

¹¹ Interexchange Further Notice at ¶ 47.

¹² Id. at ¶ 48.